

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1161 OF 2007

Chetan Foundaries Ltd. and anr. ..Petitioners

Vs.

Associated Road Carriers and anr. ..Respondents

Mr. S.S. Shah for petitioners.
Mr. Y.M. Nakhawa, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : July 24, 2007.

P.C.:

1. Heard Mr. Shah the learned counsel for the petitioners who are the accused in S.C.C. No. 533 of 1999 filed before the learned JMFC at Solapur for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881. The petitioners are aggrieved by the order dated 6/6/2007 by which the application filed at Exh.106 came to be rejected.

2. The complainant was in the witness box for cross-examination and the accused could not proceed with the cross-examination. Consequently on

27/11/2006 the trial court passed the order of no cross by the accused. Subsequently, on the application made by the accused the said order was set aside on 6/6/2007 and the application at Exh.104 was allowed. However, the said application was allowed by noting the undertaking from the learned Advocate for the accused that within 10 minutes he would start with the cross-examination. Instead of starting the cross-examination, the learned Advocate for the accused filed one more application for adjournment and that application came to be marked as Exh.106. The learned Judge of the trial court rejected the same. It is obvious that the complaint has been pending right from 1999 and for some reason or the other the accused is trying to delay the trial in spite of the fair opportunity having been provided and on the basis of the undertaking given by the learned Advocate for the accused the order of no cross was set aside and a fresh opportunity was offered to the said learned Advocate. This opportunity was willingly by-passed by filing an application at Exh.104 and it was rejected. Subsequently the application at Exh.106 could have no better chance. The reasoning set out by the learned

Judge of the trial court cannot be termed as perverse or grossly erroneous in rejecting the application at Exh.106.

3. The petition is, therefore, rejected summarily.

(B.H. Marlapalle, J.)